

KENTUCKY BOARD OF RESPIRATORY CARE

MINUTES

April 20, 2006

A regular meeting of the Kentucky Board of Respiratory Care was held at 6:00 p.m., at Sal's Restaurant, 3347 Tates Creek Rd., Lexington, KY on Thursday, April 20, 2006.

MEMBERS PRESENT

Byron T. Westerfield, M.D., Chair
Klaus O. Becker, Vice-Chair
Anna J. Jones
Pat Fisher
Wade Root
Tami McDaniel
Abdi Vaezy, M.D.

KBRC STAFF

Peggy Lacy Moore, Board Administrator
Rick L. Rose, Administrative Assistant

OTHER

Cheryl Lalonde-Mooney, AAG
James Grawe, AAG

Dr. Westerfield called the meeting to order at 6:05 p.m., at Sal's Restaurant, 3373 Tates Creek Road, Lexington, KY.

Minutes

Pat Fisher moved to approve the February 17, 2006 minutes; seconded by Tami McDaniel. Motion carried unanimously.

Complaint Case - Terri Limbaugh, RRT – KY # 2150

Pursuant to KRS 61.810 (1) (c) and (j), Klaus Becker made a motion for the Board to go into closed session to discuss proposed or pending litigation and an individual adjudication. The motion was seconded by Wade Root, and carried unanimously.

James Grawe, AAG, was present to advise the Board regarding the complaint against Ms. Limbaugh, since Ms. Lalonde previously recused herself from counseling the Board in the matter. Ms. Lalonde, Mrs. Moore and Mr. Rose left the room during the Board's discussion of the complaint against Ms. Limbaugh.

Klaus Becker moved to come out of closed session; seconded by Wade Root. Motion carried unanimously.

Mr. Grawe left the meeting after the Board returned to open session and Ms. Lalonde, Mrs. Moore and Mr. Rose returned to the meeting.

Financial Statement

Mrs. Moore presented the Board with a financial statement ending January 31, 2006 reflecting expenses from February 1, 2006 – March 31, 2006 and ending with a balance of \$316,654.70 for FY 2005-2006.

A motion was made by Wade Root to accept the financial report; seconded by Anna Jones. Motion carried unanimously.

Budget Report - FY 2005-2006

Dr. Westerfield requested that letters be sent to State Budget Director Brad Cowgill, Rep. Jody Richards, Rep. Harry Moberly and Ryan Green about a request not to sweep funding from the KBRC budget as well as the lack of funding proposed in the Governor's budget bill 380 for FY 07 and FY 08 for the Board. Mrs. Moore has been in contact with GOPM asking for an increase of funding to the "revised FY 06 budget of \$123,600, and "recommended budgets of \$127,100 for both FY 07 and FY 08. Ryan Green, GOPM Analyst for the Board, assured Mrs. Moore that the Board could revise the funding by processing appropriation modifications and allotment modifications to increase the financial needs for FY 07 and to request the same modifications in May 2007 for FY 08.

Klaus Becker also routed letters in regard to the KBRC's budget for FY 07 and FY 08 to Sen. Dan Kelly and Rep. David Floyd.

Report from CEU Committee - Continuing Education

Wade Root gave an update on the CEU process. Mr. Root advised as an FYI item he had corresponded with Mark Vargas on a question wherein a staff member had taken 150 hours of study for an EMT-B class requesting CEU approval. Mr. Root advised Janet Vogt had been reviewing CEU's in his absence while he was out for surgery.

140 Therapists Terminated from 2006 Renewal Cycle

Mrs. Moore advised the Board that 140 therapists had failed to renew and were terminated from the 2006 renewal cycle. These individuals were sent letters of termination along with reinstatement forms, with copies of their termination status forwarded to their last known supervisors. The names are also posted on the website for review. At this date only two therapists have reinstated.

Staff Report

Mrs. Moore and Mr. Rose gave their staff reports to the Board.

Agreed Orders:

Shirley Henderson KY # 0086

Mrs. Moore told the Board we had received recent updates from Roger Wood, BA, CADC, counselor for Shirley Henderson, and documentation of Ms. Henderson's attendance at AA/NA meetings. Ms. Henderson is in compliance with the terms of her Agreed Order.

Darlene Jackson KY # 4926 – Update on Agreed Order

Mrs. Moore stated we have received documentation that Ms. Jackson is in compliance with the terms of her Agreed Order.

Robert N. Corbett, Jr. KY # 2955 – Update on Agreed Order

Mrs. Moore stated we had received documentation that Mr. Corbett is in compliance with the terms of his Agreed Order.

Oliver “Lee” Adkins KY # 4298 – Update on Agreed Order

Mrs. Moore stated we had received documentation that Mr. Adkins is in compliance with the terms of his Agreed Order. Anna Jones moved to approve the Agreed Order; the motion was seconded by Pat Fisher and carried unanimously.

Old Business

KBRC Regulations: 201 KAR 29:010, 201 KAR 29:015, KAR 201 29:050

The Board discussed the regulatory changes that were approved at the November 7, 2005 special meeting and drafted by Ms. Lalonde. This is the first request since 1990 to increase licensure certification fees with application fees staying the same. The applications will be changed to reflect the new fees if approved by the Legislature. The renewal form will be updated to reflect the CEU provider numbers and course numbers. The Board also approved elimination of the CEU carryover. The following is the old and new fee structure proposed by the Board that will be incorporated in our regulations scheduled to be filed with LRC by May 15, 2006:

Old Fees:	Certification	Application	Totals
Limited/Student:	\$15	\$10	\$25
Mandatory/Temp	\$10	\$50	\$60
Mandatory/NBRC	\$50	\$50	\$100
Proposed Fees:	Certification	Application	Totals
Limited/Student:	\$40	\$10	\$50
Mandatory/Temp	\$35	\$50	\$85
Mandatory/NBRC	\$75	\$50	\$125
Other Fees:	Old Fee	Proposed Fee	
Reinstatement:	\$70	\$150	

Reactivation	\$50	\$75
Renewal	\$50	\$75
Inactive Renewal	\$10	\$25

The Board proposes a \$25 increase in all our fees except inactive renewal where we are proposing a \$15 increase and the reinstatement fee that proposes an \$80 increase. The reason the reinstatement fee is substantially higher is because we made it twice the cost of renewal to create an incentive for people to timely renew. Otherwise, some people have continued to work on an expired license and jeopardized the businesses they're working for by providing unlicensed respiratory services. Unlicensed respiratory services usually have to be reimbursed to federal/state entities so we have put a penalty in our regulation for unlicensed practice at \$100 per day. We added language that makes all fees non refundable. Also, it was discussed that the Board will not give credits any longer for proceeding to the next licensure step if someone comes to us as a student, temporary, and NBRC certified. All practitioners will pay the amount for each licensure as noted. A public hearing, if needed by the Board, on the regulations will be held at 4:00 p.m., on June 29, 2006 prior to the special meeting.

Wade Root moved to accept the regulatory amendments and file them with LRC by May 15, 2006; the motion was seconded by Anna Jones and carried unanimously.

HB 265 – KBRC Law Change

Dr. Westerfield gave a report on HB 265. HB 265 was passed in the 2006 Legislative Session and eliminates the renewal grace period from January 31-March 2. The Board appreciates the help of Representative Susan Westrom, sponsor of the bill, who introduced HB 265, which passed without any opposition. Governor Ernie Fletcher signed the bill on March 15, 2006 and it becomes law on July 12, 2006.

Appearance of Attorney Lisa English Hinkle for Rockcastle Hospital

Attorney Lisa English Hinkle, representing Rockcastle Hospital, requested the Board to table her request to approve establishment of a pulmonary nurse aide position at Rockcastle Hospital and Respiratory Care Center, in Rockcastle, Kentucky. Ms. Lalonde, Mrs. Moore and Mrs. Vogt, consultant for the Board, met with Ms. Hinkle and Ms. Thacker in April due to Ms. Hinkle's request for a meeting. The Board agreed to table the issue until the June meeting and will notify Dr. Charlotte Beason of the KY Nursing Board.

Brian Fingerson, Consultant for KBRC - Impairment Program

Mrs. Moore presented billings from Brian Fingerson totaling 5.5 hours working on the Baker, Barnes, and Bailey impairment cases. The Board will reimburse Mr. Fingerson for his services and will bill each client to collect for the billings at \$75 an hour on each individual case. Mr. Fingerson has provided information for a newsletter and a listing of warning signs on impairment issues which Pat Fisher will review for the next newsletter and posting to the website. Ms. Lalonde recommended the Board use Mr. Fingerson as a general consultant and anticipated consulting fees would not run over \$5,000 a year.

Carolyn F. Graham – Licensure Lapsed for 8 Months

Ms. Lalonde updated the Board on Carolyn F. Graham, a respiratory therapist, employed at Twin Lakes Hospital in Leitchfield, KY who lapsed on upgrading her mandatory application by eight months after passing the NBRC exam. Since the April meeting, Mrs. Graham has signed the Agreed Order and paid a fine of \$750 for unlawful practice. Mrs. Moore told the Board the Office of the Inspector General had investigated Twin Lakes and found some deficiencies. A motion was made by Wade Root to send a letter to Twin Lakes stating the Board felt no further action was needed against Twin Lakes Hospital, thus the matter was dismissed; motion was seconded by Tami McDaniel and carried unanimously.

Complaints

Pursuant to KRS 61.810 (1) (c) and (j), Klaus Becker made a motion for the Board to go into closed session to discuss proposed or pending litigation and individual adjudications. The motion was seconded by Wade Root, and carried unanimously.

Klaus Becker moved to come out of closed session; seconded by Wade Root. Motion carried unanimously.

A. Matthew Mattes KY # 2666

Klaus Becker made a motion to continue the investigation of Matthew Mattes pending the outcome of his criminal case; motion was seconded by Wade Root and carried unanimously.

B. Christina L. Bailey – KY # 4873

Tami McDaniel moved to approve the notice of hearing and complaint. A hearing will be set for Friday, June 30, 2006 at 9:00 a.m., at the Board's office, if this matter is not resolved prior. The motion was seconded by Anna Jones and carried unanimously.

C. Terri Limbaugh – KY # 2150

The Board reviewed a request from Mr. Vogt asking that the complaint be reviewed a second time. Klaus Becker moved that the case of Vogt vs. Limbaugh remain closed, and stands as dismissed without prejudice due to insufficient evidence; the motion was seconded by Anna Jones. Motion carried unanimously.

D. Debra Moore – KY # 0339

Klaus Becker moved to continue the case pending a response from the licensee. The motion was seconded by Anna Jones and carried unanimously.

E. Katrina A. Baker – KY # 0208

Klaus Becker moved to approve the terms of the Agreed Order for Katrina Baker; the motion was seconded by Wade Root and carried unanimously.

F. Sharon Barnes – KY # 0556

Klaus Becker moved to approve the terms of the Agreed Order for Ms. Barnes; the motion was seconded by Wade Root and carried unanimously.

Correspondence

Mrs. Moore presented the following as FYI items: New state mileage. 41 cent for 4/1-6/30/06; Email from J. Vogt; AARC Mtg.; J. Vogt Email; LRC letter; Memo re: Grandfathered Status; Personnel Memo; D. Carroll Email; Agreed Order of Carolyn Graham; Letter to Twin Lakes Hospital in Leitchfield, KY; Letter to Inspector General for Info and David Felker Email Response by J. Vogt.

The Board discussed the Memo regarding grandfathered licensure status as follows:

Mrs. Moore requested we get confirmation re: grandfathered therapists. When a “grandfathered therapist” terminates within a renewal cycle – can they come back without a NBRC Certification?

Clarification from legal counsel advises a grandfathered therapist who has been active up to the point of their renewal lapse/termination will have a five (5) year window to reinstate. A grandfathered therapist who has been inactive for five (5) years who lapses/terminates will then have to submit NBRC credentials to obtain their licensure certification.

Legal counsel also advised inactive status is not equivalent to mandatory certification.

Tami McDaniel requested clarification about Mrs. Vogt’s response to an email from David Felker, Sleep Analyst in Kennett, MO. Clarification was sought and forwarded to Ms. McDaniel that KBN laws state an LPN works under the supervision of an RN or a respiratory therapist to set up CPAP and BIPAP in the home setting.

New Business

Lonnie Ely Request for Reinstatement

Mrs. Moore presented a reinstatement application for Lonnie Ely. Mr. Ely sought employment to work at Sts. Mary & Elizabeth Hospital in Louisville, KY. Lisa Stampor, supervisor at Sts. Mary & Elizabeth, contacted Mrs. Moore and faxed a license that Mr. Ely produced to work in the sleep lab. This purported license was a false document that Mr. Ely produced to his employer to secure employment. Mr. Ely worked nine (9) days at the hospital.

Ms. Stampor was notified Mr. Ely did not hold a current license. Mr. Ely was notified by mail and phone calls that the Board would review his request at the April 20, 2006 meeting.

Klaus Becker moved to request that legal counsel draft a letter to Mr. Ely denying him a respiratory license and also send a letter to the Jefferson County Attorney for possible criminal prosecution; the motion was seconded by Wade Root and carried unanimously.

Joy Beth Morrison – Reinstatement Request

Joy Beth Morrison filed for reinstatement and listed she had worked after March 2, 2006, without proper licensure for nine (9) days. A motion was made by Klaus Becker, and seconded by Anna Jones, not to issue a license until an Agreed Order is signed and the appropriate fine is paid. Motion carried unanimously.

Charles King – Reinstatement Request

Charles King filed for reinstatement and listed he had worked after March 2, 2006, without proper licensure for four (4) days. A motion was made by Klaus Becker, and seconded by Anna Jones, not to issue a license until an Agreed Order is signed and the appropriate fine is paid. Motion carried unanimously.

Announcements

A motion was made by Anna Jones, and seconded by Wade Root, to change the date of the KBRC December meeting due to the AARC meeting held on December 11-14 in Las Vegas, NV. The KBRC meeting will be held on Tuesday, December 5, 2006 at the Campbell House at 6:00 p.m. and will now be a “special meeting”; Motion carried unanimously.

The next regular meeting of the KBRC will become a “special meeting” and will be held on Thursday, June 29, 2006 at 5:00 p.m., at 2624 Research Park Drive, Suite 304, Lexington, KY.

Dr. Westerfield mentioned the Board may want to consider electing officers at the August meeting if desired. Presently, Dr. Westerfield and Klaus Becker’s terms expire on October 31, 2006 and both are eligible for another three-year term if Governor Fletcher reappoints them.

Approval of Per-diem, Compensation, Travel and Honoraria

The motion was made by Klaus Becker, and seconded by Dr. Vaezy, to approve the payment of per diem, compensation and travel for Board members. Motion carried unanimously.

Application Review

A motion was made by Klaus Becker to accept all applications since the last meeting; seconded by Anna Jones. Motion carried unanimously.

The following **Student applications (27)** were approved:

Amanda J. Barr, Jade M. Best, Lauren L. Butts, Vicky A. Cooper, Amber N. Douglas, Sarah L. Driskell, Ashley N. Eaton, Kristi L. Elswick, Korey B. Fulkerson, Anthony W. Girod, Chandra N. Helton, Danielle N. Hensley, Timothy R. Hill, Tabitha D. Jones, Kari J. Lawrence, Tisha L. Mills, Jessica D. Ollis, Brandy N. Rednour, William M. Rogers, Shelley Y. Spalding, Shanna R. Spann, Christopher L. Spraggs, Shannon L. Teater, Valerie M. Wagoner, Melanie D. Whitlock, Lauren L. Wrenn, Deborah L. Young.

The following **Temporary applications (1)** were approved:

Timothy D. Nevins.

The following **NBRC applications (17)** were approved:

Amy B. Allen, Crystal N. Bolton, Stacy L. Crenshaw, Susan Gershman, Shawna D. Hickok, Christy L. Hopkins, Thomas E. Johns, James Christopher King, Amy N. Miller; Kimberly S. Phipps, Garry C. Stanley, David W. Smith, Jennifer L. Stout, Christy D. Taylor, Amber L. Wacker, Stephen K. Wilson.

The following **Reciprocity applications (17) were** approved:

Juanita C. Bailey, Amy Branen, Leanne M. Brouillette, Francene Cisco, Donald L. Forbush, Regina G. Gillispie, Jason T. Gilmour, Tracy C. Howard, Kimberly G. Lambert, Jo A. Nelson, Jennifer R. Nicholson, Lisa M. Muiter, LaToya C.H. Richardson, D'India Rose, Ronnie H. Smith, Pamala D. Walton, William E. Working .

Wade Root made a motion to adjourn the meeting at 8:50 p.m.; seconded by Dr. Vaezy. Motion carried unanimously.

Dr. B.T. Westerfield, Chair
KY Respiratory Care Board